THE HON'BLE SRI JUSTICE P.S.NARAYANA

Writ Petition No.24405 OF 2007

Date: 19th November, 2007

Between :-

M. Shankara Rao and another ..

Petitioners

And

The Government of Andhra Pradesh,
Rep.by its Commissioner,
Civil Supplies Department,
"Civil Supplies Bhavan", Somajiguda,
Hyderabad and another ..
Respondents

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ORDER:-

The matter is coming up for *admission.*

2. Heard Sri Devanand, the learned Counsel representing the writ petitioners and the learned A.G.P. for Civil Supplies.

3. The Writ Petition is filed for issuance of a Writ of Mandamus declaring the action of the of the 2nd respondent in taking steps to fill the vacancies of Fair Price Shops No.9 and 12 of A.Kottapalli and China Nandi Palli villages of Devarapalli Mandal, Vuisakhapatnam District on permanent basis as illegal, unjust and contrary

to the proceedings issued by the 1st respondent vide CCS.Ref.No.N5/10045/2005, dt.29-6-2005 and dt.18-10-2005 and agth principles of natural justice and violative of Article 21 of the Constitution of India and consequently direct the respondents to consider the cases of the petitioners for appointment as Fair Price Shop Dealer as L.Rs., of deceased dealers and pass such other suitable orders.

4. It is stated that the deponent is a legal representative (son) of the deceased Fair Price Shop Dealer of shop No.9, A.Kottapalli village and the 2nd petitioner is the legal representative (son) of Fair Price Shop Dealer of shop No.12, China Nandi Palli village of Devarapalli Mandal of Visakhapatnam District and also stated that they have been requesting the respondents to consider their cases for appointment as Fair Price Shop Dealers or by way of transfer of authorization. Further it is stated that the Fair Price Shop Dealers Welfare Federation of Andhra Pradesh submitted representations to the respondents to appoint legal representatives in the event of death of dealers. Further it is averred that the father of the deponent died on 26-10-2006 and the father of the 2nd petitioner died on 9-9-2007 and that since then they have been pursuing with the authorities to appoint them as dealers, but the matter was being delayed in one or other reason on the ground that the 1st respondent has to receive the remarks from the District Officials. It is also stated that now the 2nd respondent is taking steps to fill

the vacancies caused due to the death of their fathers on permanent basis by issuing notification, ignoring their claims. Further it is averred that the action of the 2nd respondent to fill the vacancies caused due to the death of petitioners' fathers on permanent basis by issuing notification, ignoring their claims is illegal, arbitrary and violative of principles of natural justice. In fact, the issue is pending before the respondent No.1 with regard to appointment of L.Rs.,. as Fair Price Shop Dealers and also stated that the 1st respondent had issued instructions to the District Collectors on 29-6-2005 to offer their remarks with regard to the conditions prescribed for transfer of the authorization in favour of legal representatives of the deceased dealers and that thereafter some of the District Collectors had sent their remarks to the 1st respondent. It is also averred that in that context, the respondent had issued proceedings dt.18-10-2005 in which he had called for certain information from all the District Collectors specifically with regard to vacancies etc., i.e., number of vacancies existing during last 5 years and total number of shops existing etc., with regard to deceased dealers, as such the 1st respondent may issue amended G.O., or necessary instructions at any time. Further it is stated that knowing fully-well about these proceedings are pending with the 1st respondent, instead of waiting till a decision is taken by the 1st respondent, the 2nd respondent is proceeding with the filling of the vacancies which will affect the petitioners'

rights and also entire exercise which was already initiated by the 1st respondent and their Association would be frustrated. Further it is stated that the object in initiating the above referred proceedings is to affect transfer of authorization in favour of L.Rs., in the event of death of any Fair Price Shop Dealer to protect the interest of the deceased family. It is also stated that if the 2nd respondent proceeds further to fill the vacancies on permanent basis it will affect the petitioners' claims since the rights of the Third Parties will be created. It is further stated that the 2nd respondent is estopped in filling the vacancies on permanent basis since the 1st respondent is called for remarks and vacancy position of deceased dealers and as such the 2nd respondent ought not to have take any steps to fill the vacancies in respect of the deceased dealer's shop and that the impugned action is unjust and affect their livelihood. It is also further stated that the petitioners' are having all the requisite qualifications and eligibility for appointment as dealers by way of transfer of authorization, as such as last resort, they are approaching this Court. Further it is stated that unless this Court intervenes and direct the respondents not to fill the vacancies of Fair Price Shops caused due to the death of the dealers on permanent basis till the 1st respondent take decision with regard to the transfer of authorization in favour of the legal representatives of the deceased Dealers, the petitioners will be put to heavy loss and hardships.

5. It is brought to the notice of this Court that in similar fact situation, in W.P.No.22470/06, this Court disposed of the Writ Petition by order dt.5-10-2007. In the said order, the Writ Petition was disposed of observing as hereunder:-

> *"In the light of the specific stand taken by the 3rd respondent in the counter affidavit, this Court is of the considered opinion that at present the petitioners are not having any legal right whatsoever to be appointed as Fair Price Shop Dealer. However, in the light of the correspondence placed before this Court, it is seen that the issue is pending consideration before the Commissioner of Civil Supplies. Let, the Commissioner of Civil Supplies take appropriate decision in this regard in accordance with the Rules within a period of eight weeks from the date of receipt of a copy of this Order.*
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> *With the above direction, the Writ Petition is disposed of. No costs."*

6. In the light of the same, this Writ Petition also is disposed of with a direction let the Commissioner of Civil Supplies take appropriate decision in this regard in accordance with the Rules within a period of eight weeks from the date of receipt of a copy of this order.

7. Accordingly, the Writ Petition is disposed of. No order as to costs.

Justice P.S.Narayana

19th November, 2007

smr